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PROVIDENT LIFE AND ACCIDENT  
INSURANCE COMPANY (erroneously  
sued as UNUMPROVIDENT  
INSURANCE COMPANY

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

VIR'GINA HARRIS, ) Case No.: C07-5265 EMC  
Plaintiff, )  
vs. )  
UNUMPROVIDENT INSURANCE ) [PROPOSED] ORDER RE  
COMPANY and DOES One to Ten, inclusive, ) DEFENDANT'S MOTION TO DISMISS  
Defendants. ) (12(b)(6)  
Date: November 28, 2007  
Time: 1:30 p.m.  
Court: C

The Motion to Dismiss of Defendant Provident Life & Accident Insurance Company (erroneously sued as Unumprovident Insurance Company) (“Defendant”) came on regularly for hearing. The appearances of counsel and parties are as reflected in the minutes of the Court.

Upon review of all papers and pleadings filed herewith, the Court finds that there is no basis for a cause of action under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 a, *et seq.*, California, Civil Code § 1788, *et seq.*, or Business & Professions Code Sections 17200, *et seq.* Consequently, there is no basis for plaintiff's first or second cause of action. Because there is no viable FDCPA cause of action there is no basis for an injunction (third cause of action).

The Court further finds that Plaintiff has failed to properly allege a cause of action for defamation (seventh cause of action) and that there is no basis in law for a “bad faith” cause of action (eighth cause of action).

The Court further finds that Plaintiff has failed to properly alleged causes of action for intentional infliction of emotional distress, breach of contract and breach of the implied covenant.

**It is therefore ORDERED THAT:**

1. Plaintiff's first, second, third, seventh and eighth causes of action are dismissed without leave to amend.
2. Plaintiff's fourth, fifth and sixth causes of action are dismissed with leave to amend.
3. Plaintiff has twenty (20) days to amend her complaint in accordance with this Order.

Dated: October . 2007

By \_\_\_\_\_  
United States District Judge

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